

AARON D. FORD
Attorney General
Allison Herr (NV Bar No 5383)
Senior Deputy Attorney General
State of Nevada
Office of the Attorney General
555 E. Washington Ave., Ste. 3900
Las Vegas, NV 89101
(702) 486-3799 (phone)
(702) 486-2377 (fax)
AHerr@ag.nv.gov
Attorneys for Respondents

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

MICHAEL L. SMITH,
Petitioner,
vs.
RENEE BAKER, et al.,
Respondent

Case No. 3:13-cv-00246-RCJ-WGC

**ORDER GRANTING MOTION FOR
EXTENSION OF TIME TO FILE
ANSWER TO AMENDED PETITION FOR
WRIT OF HABEAS CORPUS
(ECF NO. 44)**

(FOURTH REQUEST)

Respondents move this Court for a thirty-day extension of time from the current due date of Monday, October 5, 2020 up to and including Wednesday, November 4, 2020 in which to file their answer to Michael Smith's Second Amended Petition for Writ of Habeas Corpus. ECF No. 44. This motion is made pursuant to Fed. R. Civ. P. 6(b) and Rule 6-1 of the Local Rules of Practice and is based upon the attached affidavit of counsel.

This is the fourth enlargement of time sought by Respondents and is brought in good faith and not for the purpose of delay.

DATED October 5, 2020.

AARON D. FORD
Attorney General

By: /s/ Allison Herr
ALLISON HERR (Bar No. 5383)
Senior Deputy Attorney General

DECLARATION OF ALLISON HERR

STATE OF NEVADA)
) ss:
COUNTY OF CLARK)

I, Allison Herr, being first duly sworn under oath, depose and state as follows:

1. I am an attorney licensed to practice law in all courts within the State of Nevada and am employed as a Senior Deputy Attorney General in the Office of the Nevada Attorney General. I have been assigned to represent Respondents in the case of *Smith v. Baker*, 3:13-cv-00246-RCJ-WGC, and as such, have personal knowledge of the matters contained herein.

2. An answer to the Second Amended Petition for Writ of Habeas Corpus (ECF No. 44) is currently due on Monday, October 5, 2020. I have been unable to timely complete the answer in this matter and need additional time to respond. I am seeking an extension of thirty days up to and including Wednesday, November 4, 2020.

3. I recognize that it is highly unusual to seek or to be granted a fourth extension. However, I had encountered several emergency matters, both professional and personal that subverted my efforts to complete this project. When I previously sought a third extension, I advised this Court that my husband had been ill with covid. At the time that motion was drafted, I believed he was recovering so only sought a thirty-day extension. However, after seeking this extension he experienced another setback and was again hospitalized. In addition, I am working from home and subject to remote access to work computers. In an effort to improve reliability, the Office of the Nevada Attorney General is transitioning databases to cloud services, and while this will be an improvement in the long run, in the short run this has resulted in computer outages on September 8, 2020; September 11, 2020; September 14, 2020; September 15, 2020; and September 18, 2020, frustrating my ability to access necessary information to respond to this matter. Further due to an electronic filing error, on September 21, 2020, I learned for the first time of a 9th Circuit matter filed under case 20-72428. The better part of a day was spent identifying the error and remedying the situation. While the Ninth Circuit Court did grant me a brief extension, that extension was only granted to October 5, 2020 to file my opposing pleadings. Unfortunately, all of these matters negatively impacted my ability to complete the answer in this matter. Thus, I am seeking another extension based upon the totality of the circumstances.

5. I have discussed this matter with opposing counsel, and she does not oppose my request.
6. This is the fourth request for an extension to file the answer.
7. This motion is made in good faith and not for the purpose of delay.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on this 5th day of October 2020.

/s/ Allison Herr
ALLISON HERR (Bar No. 5383)

ORDER

IT IS HEREBY ORDERED that the Motion for Extension of Time to File Answer to Amended Petition for Writ of habeas Corpus (ECF No. 89) is GRANTED.

IT IS FURTHER ORDERED that Respondents shall file and answer to the Second Amended Petition for Writ of Habeas Corpus (ECF No. 44) on or before Wednesday, November 4, 2020.

IT IS SO ORDERED this 21st day of October, 2020.

~~ROBERT C. JONES
United States District Judge~~

CERTIFICATE OF SERVICE

I hereby certify that I electronically filed the foregoing *Motion for Extension of Time to File Answer to Second Amended Petition for Writ of Habeas Corpus (Fourth Request)* with the Clerk of the Court by using the CM/ECF system on October 5, 2020.

The following participants in this case are registered electronic filing system users and will be served electronically:

Amelia L. Bizzaro
Assistant Federal Public Defender
Wisconsin State Bar No. 1045709
411 E. Bonneville Ave., Ste. 250
Las Vegas, Nevada 89101
(702) 388-6577
Amelia_Bizzaro@fd.org

/s/ C. Martinez
An employee of the Office of the Attorney General